

SCANNED

FILED

DEPT. OF JUSTICE, MT

IN THE UNITED STATES DISTRICT COURT

2005 APR 12 AM 10 01

FOR THE DISTRICT OF MONTANA

CLERK E. J. ...

BILLINGS DIVISION

BY _____

DEPUTY CLERK

TRI-CITY RAILROAD COMPANY,
LLC, a Washington Limited Liability
Company

Plaintiff,

vs.

TALGO-LRC, LLC, a Delaware Limited
Liability Company

Defendant.

CV-02-49-BLG-RFC

ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS OF
THE U.S. MAGISTRATE JUDGE

On August 31, 2005, United States Magistrate Judge Richard W. Anderson entered his Findings and Recommendation. Magistrate Judge Anderson recommended that Plaintiff's Motion for Partial Summary Judgment (*Doc. # 46*) be granted and that Defendant's Motion for Summary Judgment (*Doc. # 42*) be denied. Magistrate Judge Anderson further recommended that summary judgment not be entered until damages have been determined and that this Court hold a scheduling conference to set dates and deadlines necessary to resolve the remaining issues in this case.

On September 16, 2005, Magistrate Judge Anderson granted Defendant's motion for leave to seek reconsideration of the August 31, 2005 Findings and Recommendations. Magistrate Judge Anderson filed his Supplemental Findings and Recommendations on February 3, 2006, recommending that Defendant's Motion for Reconsideration (*Doc. # 71*) be denied.

Upon service of a magistrate judge's findings and recommendation, a party has 10 days to file written objections. 28 U.S.C. § 636(b)(1). In this matter, Plaintiff filed their objections on February 21, 2006. The briefing concluded with the receipt of Plaintiff's reply brief on March 24, 2006. Defendant's objections are not well taken.

After a *de novo* review, the Court determines all Findings and Recommendations of Magistrate Judge Anderson are well grounded in law and fact and **HEREBY ORDERS** they be adopted in their entirety.

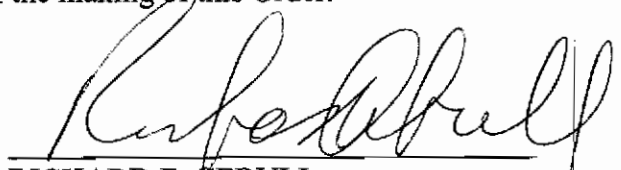
Accordingly, **IT IS HEREBY ORDERED** that Plaintiff's Motion for Partial Summary Judgment on Liability (*Doc. #46*) is **GRANTED** and Defendant's Motion for Summary Judgment (*Doc. # 42*) is **DENIED**.

IT IS FURTHER ORDERED that Defendant's Motion for Reconsideration (*Doc. # 71*) is **DENIED**.

Finally, **IT IS FURTHER ORDERED** that counsel for the respective parties shall appear in the Chambers of United States District Judge Richard F. Cebull at **10:30 a.m. on May 2, 2006** in the James F. Battin Federal Courthouse, 316 North 26th Street, Billings, Montana, for the purpose of a scheduling conference in order to develop a case-specific plan for discovery and a schedule for disposition of the case.

The Clerk of Court shall notify the parties of the making of this Order.

DATED this 6 day of April, 2006.


RICHARD F. CEBULL
UNITED STATES DISTRICT JUDGE